

IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF

PUERTO RICO

DIVISION

Motion under Title 18 U.S.C. §3582 (c) (2) and U.S. Sentencing Guidelines §1b1.10(c) for
Reduction of Sentence Based on 2007 Guideline Amendment Nine Which Became
Effective on November 1, 2007, and Caused a Two-Level Reduction in
Base Offense Level for Cocaine Base.

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CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, PR

HERIBERTO GUADALUPE MERLADO
Petitioner.

Vs.

Criminal Case No. 00-048 JAF

United States of America.

COMES NOW, the Petitioner, HERIBERTO GUADALUPE, acting on his own behalf and REQUESTS this Honorable Court to use its discretion and GRANT him the relief provided in the 2007 Guideline Amendment Nine. Amendment Nine modified the drug quantity thresholds in the Drug Quantity Table so as to assign, for crack cocaine (cocaine base) offenses, base offense levels corresponding to guideline ranges that include the statutory minimum penalties.

Accordingly, pursuant to the amendment, 5 grams of cocaine base are assigned a base offense level of 24 (51 to 63 months at Criminal History Category of I, which includes the five-year (60 month) statutory minimum for such offenses), and 50 grams of cocaine base are assigned a base offense level of 30 (97 to 121 months at Criminal History Category I, which includes the ten-year (120 month) statutory minimum for such offense. The base offense levels for 5 grams and 50 grams of cocaine base were levels 26 and 32, respectively, before Amendment Nine. Cocaine base offenses for quantities above and below the mandatory minimum threshold quantities similarly are adjusted downward by two levels.

Based on the following information, Petitioner qualifies for the two level reduction in his sentence and REQUESTS that relief be granted:

1. Date of conviction (whether by guilty plea or trial) NOVEMBER 16, 2000
2. Date of sentencing (the last time you were sentenced, if you were re-sentenced)
MAY 10, 2001
3. Did cocaine base alone cause your Base Offense Level (BOL) to be greater than level 12? If no, Amendment Nine does not apply to you. If "Yes" or "Don't know", proceed with this motion.
4. List the level that your sentence was based and the count related to the level.
Level 33 for count(s) ONE GRAPED
Level 24 for count(s) TWO
Level _____ for count(s) _____
(If you received more than one sentence and the sentences are different use additional lines)
5. What was your Criminal History Category? (Circle One)
I II III IV V VI
6. What was your sentencing range and sentence before Amendment Nine?
Sentencing range 135-168 I received a sentence of 144 for count ONE. If applicable, write in any other sentences you received for cocaine base that is different from the sentence you listed.
7. What is your offense level and sentencing range after a two-level reduction base on Amendment Nine?
Level 31 Sentencing range 108-135 Count(s) ONE
If more than one sentence that is different from the one above (drug sentences only).
Level _____ Sentencing range _____ Count(s) _____
Level _____ Sentencing range _____ Count(s) _____
8. Petitioner's projected release date at this time is DEC 2010
Petitioner respectfully requests to be sentenced at the bottom of his new sentencing range.

Respectfully submitted this 30 day of APRIL, 2008

Signature of Petitioner [Signature]

Typed Name of Petitioner HERIBERTO GUADALUPE

Register Number 20234-069

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